IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5620 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHIVNARYAN BANSILAL SHARMA

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 5620 of 2001

MR DHAVAL G NANAVTI for Petitioners No. 1-3

MR RS SANJANWALA for Petitioners No. 1-3

MR PANCHOLI, APP, for Respondent No. 1

DS AFF.NOT FILED (R) for Respondent No. 2

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 27/12/2001

ORAL JUDGEMENT

1. Petitioners herein are the accused persons, who

are alleged to have been involved in offences punishable under Sections 70(6) and 81 of the Bombay Prohibition Act, in an F.I.R. lodged with Dahod Town Police Station vide C.R. No.291 of 2001. According to the prosecution case, a truck bearing No.MP-09-KB-6191 was intercepted on July 14, 2001 at about 19.00 hours at Dahod. The said truck was found to contain rotten gur (jaggery) weighing about 14000 kgs. The said material belonged to the petitioners. In the said F.I.R., petitioners No.1 and 2 are indicated as the accused. The case of the petitioners is that the said material was caught while it was in transit. It was not brought into Gujarat for consumption of sale. The goods were being transported from Madhya Pradesh to Maharashtra. In support of this, necessary documents like bills, consignment note and licence issued in favour of the petitioners by the concerned authority of Madhya Pradesh are produced.

2. Learned advocate Mr. Sanjanwala appearing for the petitioners states that present case is squarely covered by several decisions of this Court. One such decision is the decision in Criminal Misc. Application No.750 of 1995 dated September 13, 1995 (Coram: J.M. Panchal, J.).

2.1 Mr. Sanjanwala also submitted that, during the pendency of this petition, a representation was made by the petitioners to the police authorities and the police authorities have released the truck as well as the muddamal material and the muddamal material has been taken out of Gujarat.

3. Learned Additional Public Prosecutor, Mr. Pancholi, has opposed this petition. He, however, states that there is no dispute about the fact that the muddamal and the truck have been released. He also does not dispute that the present case is covered by the decision in Criminal Misc. Application No.750 of 1995.

4. In view of what is stated above, it is an admitted position that, in similar cases, this High Court has quashed the F.I.Rs. The muddamal has been released by the police pending this petition and has been shifted outside the state of Gujarat. It is established that the muddamal was seized during transit from Madhya Pradesh to Maharashtra. The petition, therefore, deserves to be allowed. The F.I.R. being C.R. No.291 of 2001 of Dahod Town Police Station is hereby quashed. Rule is made absolute.

[A.L. DAVE, J.]

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